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2 Ed-George for the family Parenteau, Sui Juris
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U.S. DISTRICT COURT
N.D. OF N.Y.
FILED

JUL 15 2010

LAWRENCE K. BAERMAN, CLERK
ALBANY

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA, [sic]) CASE # 1:10-CR-0320 (TJM)
Plaintiff, [sic]) NOTICE OF MOTION AND
v.) MOTION TO DISMISS
ED GEORGE PARENTEAU, [sic]) DUE TO ILLEGAL GRAND JURY
Defendant. [sic]) PROCEEDINGS
28 U.S.C. 1867
Rule 6 (b) (2), Federal Rules of
Criminal Procedure

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I Ed-George for the family Parenteau, am a sovereign, sui juris, free white man, a
follower of Yahshua the Messiah in the laws of The Almighty Supreme Creator, Yahvah
first and foremost and the laws of man when they are not in conflict (Leviticus 18:3,4).
Pursuant to Matthew 5:33-37 and James 5:12, let my yea be yea, and my nay be nay, as
supported by your Federal Public Law 97-280, 96 Stat. 1211. Appear by special visitation
and not appearing generally, as a Secured Party Creditor, and Sui Juris, before this court.
I have personal knowledge of the matters stated herein, am over the age of majority, and

1
2 hereby asseverate understanding the liabilities presented in your Briscoe v LaHue, 460
3 US 325.
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6 COMES NOW Ed-George for the family Parenteau, *Sui Juris*, Inhabitant of the New
7 York, republic, expressly not a citizen of the United States ("federal citizen"), and
8 Defendant in the above entitled matter (hereinafter "Defendant"), to move this
9 honorable Court to dismiss the instant case with prejudice, due to improper seating and
10 improper conduct of the federal grand jury which issued the indictment on which the
11 instant case is premised, and to provide formal Notice to all interested party(s) of same.
12

13 This honorable Court will please take formal judicial Notice of the fact that
14 Defendant is not a bar-licensed attorney, and has not had the advantage(s) of formal
15 education in an accredited law school. For this reason, Defendant must learn and digest
16 the particulars of law and procedure independently, as time permits.
17

18 Therefore, this Motion is timely because the proper workings of the federal grand
19 jury system have only recently been deciphered. The seven-day time limit for filing
20 motions related to improper grand jury procedure(s) does not apply in the instant
21 case, particularly when due process Rights guaranteed by the U.S. Constitution is at
22 issue. Even with the statutory time limit, this Motion is timely because it is being
23 filed as soon as possible after discovery of the rules according to which a federal
24 grand jury is required to proceed. Moreover, related statutory provisions have only
25 recently been unraveled to clarify the grounds and the precise manner in which this
26 Motion is required to be prepared and submitted to this honorable Court.
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The key provision which demonstrates that Defendant should have been notified of an investigation and proceedings, premised upon allegations of complaint prior to the grand jury having been convened, is found at Rule 6(b)(1) of the Federal Rules of Criminal Procedure, to wit:

(1) Challenges. The attorney for the government or a defendant who has been held to answer in district court may challenge the array of jurors on the ground that the grand jury was not selected, drawn or summoned in accordance with law, and may challenge an individual juror on the ground that the juror is not legally qualified. Challenges shall be made before the administration of the oath to the jurors and shall be tried by the court.

[emphasis added]

By failing properly to notify the Defendant of allegations of complaint and intent to present matters to a grand jury for consideration, the United States Attorney effectively deprived Defendant of: (1) the Fourth Amendment Right to have access to affidavits of complaint; (2) the Sixth Amendment Right to interview witnesses against him; (3) the Sixth Amendment Right to have the assistance of Counsel during the proceedings; and (4) the Right to challenge the jury selection process and/or the qualifications of individual jury candidates.

In the grand jury forum, prospective defendants enjoy Rights articulated in Rule 5.1(a), Federal Rules of Criminal Procedure, pertaining to preliminary examinations, to wit:

The defendant may cross-examine adverse witnesses and may introduce evidence.
[Rule 5.1(a), Federal Rules of Criminal Procedure]

This Court will also please take formal Notice that the Federal Rules of Evidence, which are otherwise restrictive, do not apply to preliminary hearings or to grand jury proceedings. See Rule 1101(d) (2) and (3), Federal Rules of Evidence.

Accordingly, the applicable elements of the common law and constitutionally guaranteed Rights are both preserved in these two forums. According to the U.S. Supreme Court's decision in *Blair v. United States*, 250 U.S. 273, 282 (1919), the grand jury retains common law powers and authority vested by common law of English-American lineage prior to the ratification of the U.S. Constitution. The reason for the preservation of the grand jury's traditional authority, with the exclusion provision at Rule 1101(d)(2), is found at 28 U.S.C. 2072, which conveys authority for the U.S. Supreme Court to promulgate rules for statutory courts of the United States, to wit:

(b) Such rules shall not abridge, enlarge or modify any substantive right. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect.

Therefore, convening a grand jury in secret, without affording Defendant an opportunity to challenge the jury selection process or the qualifications of the individual jurors, and to exercise Fourth and Sixth Amendment Rights to have access to the substance of complaints, to interview adverse witnesses, and either stand in Defendant's own stead or be represented by counsel, defaults the alleged indictment into an action ultra vires ab initio (without authority from the beginning). The entire grand jury array must be defaulted, therefore, and the indictment dismissed, pursuant to 28 U.S.C. 1867(d), to wit:

(d) Upon motion filed under subsection (a), (b), or (c) of this section, containing a sworn statement of facts which, if true, would constitute a substantial failure to comply with provisions of this title If the court determines that there has been a substantial failure to comply with the

provisions of this title in selecting the grand jury, the court shall stay the proceedings pending the selection of a grand jury in conformity with this title or dismiss the indictment, whichever is applicable.

[emphasis added]

Where the instant case is concerned, the alleged indictment must be dismissed because the entire selection and seating process was conducted under the exclusive control of the United States Attorney, without the Defendant having had the opportunity to participate in the selection and qualification process, as prescribed by Rule 6(b)(1) of the Federal Rules of Criminal Procedure.

This, of necessity, defaults all members of the grand jury responsible for the alleged indictment, because *a posteriori* position does not afford the opportunity to correct an error which abridges the provisions of Rule 6(b)(1) of the Federal Rules of Criminal Procedure.

Defendant's Affidavit of Facts, as required by 28 U.S.C. 1867(d), follows the PROOF OF SERVICE attending to this Motion.

REMEDY REQUESTED

Premises considered, Defendant moves this honorable Court to dismiss the indictment with prejudice, said dismissal being mandated by the operation of law.

In order to release, absolve and purge this accusation, Defendant motions the court to enter an order for acquittal of the indictment due to the illegal actions of the Grand Jury. An indictment by a Grand Jury cannot be made unless there is proof "beyond a reasonable doubt", how can there be proof beyond a reasonable doubt when the facts have only been heard from one side, and should preclude all reasonable hypothesis's that

1 have been made and examined" It must be proof "to a reasonable and moral certainty"
2 that convinces and directs the understanding and satisfies reason of judgment of those
3 who are bound to act conscientiously upon it. It forces a man or woman to give pause and
4 hesitation to act upon the truth of the matter charged.

5 How can the men and women of the Grand Jury, make any reasonable and moral
6 determinations that give pause and hesitation to the charges without weighing both sides
7 of the parties oaths, affirmations, acts, omissions, evidence, discovery and
8 interrogatories?

9

10 VERIFICATION

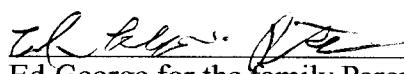
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12 Defendant hereby verifies, under penalty of perjury, under the laws of the United
13 States of America, without the "United States", that the above statement of facts is
14 true and correct, and all matters of law addressed herein are accurate and true, to the best
15 of Defendant's current information, knowledge, and belief, so help Me God, pursuant
16 to 28 U.S.C. 1746(1).

17

18 Executed on 07/11/2010:

19

20 
21 Ed-George for the family Parenteau, *Sui Juris*
New York republic

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PROOF OF SERVICE

I, Ed-George for the family Parenteau, *Sui Juris*, hereby certify, under penalty of perjury, under the laws of the United States of America, without the "United States", that I am at least 18 years of age and a Citizen of one of the united States of America states, and that I personally served the following document(s):

NOTICE OF MOTION AND MOTION TO DISMISS
DUE TO ILLEGAL GRAND JURY PROCEEDINGS:
28 U.S.C. 1867; Rule 6(b) (1),
Federal Rules of Criminal Procedure

AFFIDAVIT OF FACT:

28 U.S.C. 1746(1); 1867(d)

by placing said document(s) with exhibits in first class United States Mail, with postage prepaid and properly addressed to the following individuals:

Solicitor General
Department of Justice
10th and Constitution, N.W.
Washington, D.C.

Office of United States Attorney
THOMAS A. CAPEZZA
445 Broadway
Albany, New York (12207)
New York, republic

Executed on 07/11/2010:

Ed-George for the family Parenteau, *Sui Juris*
New York, republic

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3 Ed-George for the family Parenteau, *Sui Juris*

4 *In Propria Persona*

5 All Rights Reserved Without Prejudice

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7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE NORTHERN DISTRICT OF NEW YORK**
9

10) CASE # 1:10-CR-0320 (TJM)
11) UNITED STATES OF AMERICA,[sic])
12) Plaintiff,[sic])
13))
14) v.) AFFIDAVIT OF FACTS
15) ED GEORGE PARENTEAU,[sic]) 28 U.S.C 1746(1), 1867(d)
16))
17) Defendant.[sic])
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17 **AFFIDAVIT OF FACTS 28 U.S.C 1746(1), 1867 (d)**
18

19
20 COMES NOW Ed-George for the family Parenteau, *Sui Juris*, inhabiting on the New
21 York republic, expressly not a citizen of the United States ("federal citizen"), and
22 Defendant in the above entitled matter (hereinafter "Defendant"), to submit this,
23 Defendant's AFFIDAVIT OF FACTS.

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26
27 **VERIFICATION**

24 Defendant hereby verifies, under penalty of perjury, under the laws of the
25 United States of America, without the "United States", that the following statement of
26 facts is true and correct, and all matters of law addressed herein are accurate and true,

1 to the best of Defendant's current information, knowledge, and belief, pursuant to 28
2 U.S.C. 1746(1).
3

4 I am a state national of the New York, republic, which is one of the several states
5 party to the Constitution for the united States of America, as lawfully amended
6 (hereinafter "U.S. Constitution").

7 I inhabit and live on Chenango county, 3rd judicial district of tens, New York,
8 republic, on privately owned land which is not within any federal enclave or federal
9 area, as ceded to the United States (federal government) in compliance with 40 U.S.C.
10 255. See also 18 U.S.C. 7(3).

11 As such, I am endowed by My Creator with certain unalienable Rights, and I am
12 entitled to all Rights secured by the U.S. Constitution, particularly with respect to due
13 process of law provisions articulated in the Fourth, Fifth, Sixth, and Seventh
14 Amendments to said Constitution.

15 I attest that I was never served with actual notice of any grand jury investigation
16 concerning allegations made in the alleged indictment(s) filed in the instant case.
17

18 I attest that I was never present, nor was I represented by counsel, when the grand
19 jury was drawn and seated and, therefore, I did not have the opportunity to challenge
20 the grand jury qualification or seating process before the fact, as prescribed by Rule
21 6(b)(1) of the Federal Rules of Criminal Procedure.

22 I attest that I was never provided with copies of any valid affidavits of complaint,
23 as required by the Fourth Amendment, nor did I have an opportunity to confront
24 witnesses against Me, as assured by the Sixth Amendment.

25 I attest that I was never provided the opportunity to present evidence to the
26 grand jury once convened, nor to call witnesses on My behalf.
27

1 I attest that the first knowledge I had of any such proceedings was conveyed
2 to Me by means of a non 4th amendment arrest warrant and no summons from the
3 office of the Clerk of the United States District Court, no summons or indictment were
4 ever sent from the Clerk of the United States District Court.

5 I am not PRO SE or representing myself, I am myself.

6 I am not an expert in the law however I do know right from wrong. If there is any
7 human being damaged by any statements herein, if he will inform me by facts I will
8 sincerely make every effort to amend my ways. I hereby and herein reserve the right to
9 amend and make amendment to this document as necessary in order that the truth may be
10 ascertained and proceedings justly determined. If the parties given notice by means of
11 this document have information that would controvert and overcome this Affidavit,
12 please advise me IN WRITTEN AFFIDAVIT FORM within thirty (30) days from receipt
13 hereof providing me with your counter affidavit, proving with particularly by stating all
14 requisite actual evidentiary fact and all requisite actual law, and not merely the ultimate
15 facts or conclusions of law, that this Affidavit Statement is substantially and materially
16 false sufficiently to change materially my status and factual declarations. Your silence
17 stands as consent to, and tacit approval of, the factual declarations herein being
18 established as fact as a matter of law. May the will of our Heavenly Father Yahvah,
19 through the power and authority of the blood of His Son Yahshua be done on Earth as it
20 is in Heaven.

21
22 I pray to our Heavenly Father and not this court that justice be done.

23
24 **Reserving ALL Natural God-Given Unalienable Birthrights,**
25 **Waiving None, Ever,**
26
27

28 USC §1746

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. 28 USC §1746

Signed on this the first day of the seventh month in the year of our Lord and Savior
two thousand ten.

Executed on 07/11/2010:

~~Ed-George~~ for the family Parenteau, *Sui Juris*
New York, republic

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2 **Proof and Evidence of Service**

3 I, Ed-George for the family Parenteau: *declare that I served by filing one copy of the "AFFIDAVIT &*
Motion to Dismiss" by "hand-delivered by private carrier-service on "USDC of Northern NY" sent by post-
office-first class-mail AND OR CERTIFIED MAIL to the following:

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THOMAS A. CAPEZZA	USDC OF NORTHERN NY
Assistant U.S. Attorney Bar #503159	COURT CLERK
445 Broadway, Room 509	445 Broadway, Room 509
ALBANY, NEW YORK 12207	ALBANY, NEW YORK 12207
First class mail	First class mail

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13 Ed-George for the family Parenteau
14 07/11/2010

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NOTICE TO THE AGENT IS NOTICE TO THE PRINCIPAL NOTICE TO
THE PRINCIPAL IS NOTICE TO THE AGENT